

IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

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DEBRA P. HACKETT, CLK  
U.S. DISTRICT COURT  
MIDDLE DISTRICT ALA

JAMES O. STRUTHERS, Indi- \*  
vidually, and as Administrator of the \*  
Estate of ALICIA STRUTHERS, \*  
deceased, \*

Plaintiff, \*

v. \*

CV 2:06cv127-MHT

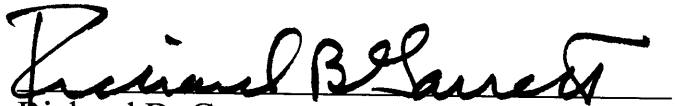
MERCK & CO., INC., a foreign \*  
Corporation; ANNE BRANDON, \*  
an individual; LAMONDE \*  
RUSSELL, an individual; and \*  
fictitious defendants, et al, etc., \*

Defendants. \*

**MOTION TO DISMISS ANNE BRANDON**

Without waiving any other defense she may have to this lawsuit, Defendant Anne Brandon moves to dismiss the Plaintiff's Complaint, under Rule 12(b)(6) of the Federal Rules of Civil Procedure, for failure to state a claim upon which relief can be granted. In support of this motion, Defendant Brandon states that she has been fraudulently joined to this action, and incorporates the legal arguments, citations, and exhibits in Merck & Co., Inc.'s Notice of Removal dated February 9, 2005.

Respectfully submitted, this the 9<sup>th</sup> day of February, 2006.



Richard B. Garrett

Bar Number: (ASB-0782-A29R)

Mike Brock

Bar Number: (ASB-5280-B61R)

F. Chadwick Morriss

Bar Number: (ASB-8504-S75F)

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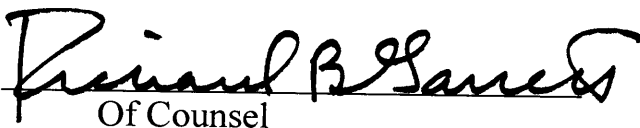
**Attorneys for Defendants**

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing upon:

Andy D. Birchfield, Jr., Esquire  
J. Paul Sizemore, Esquire  
Beasley, Allen, Crow, Methvin,  
Portis & Miles, P. C.  
P. O. Box 4160  
Montgomery, Alabama 36103-4160

by placing same in the United States mail, postage prepaid, this the 9<sup>th</sup> day of  
February, 2006.



Of Counsel